IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12777 of 2005

Between:

B.Venugopala Rao S/o.Sri B.Satyanarayana Murthy
H.No.17-17, Dharmapuri Colony Uppal R.R.District.

..... PETITIONER

AND

The Regional Manager (Hyderabad City Region),

Andhra Pradesh State Road Transport Corporation
Jubillee Bus Station, Picket, Secunderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of Mandamus or any other appropriate writ, order or direction, declaring the action of the respondent in not considering the Explanations/Objections dt.19.11.2004 and 23.5.2005, submitted the petitioner herein and issued show cause notice of removal from service dt.6.6.2005 by the Respondent, as illegal, arbitrary, unconstitutional and violative principles of natural justice and also fundamental rights guaranteed as per Law and Consequently set aside the suspension order dt.9.10.2004 and pass such other order or orders.

Counsel for the Petitioner: MRS.K.REKHA

Counsel for the Respondent: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court made the following :

O R D E R:

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This writ petition is filed by the petitioner against the show cause notice dated

06.06.2005, proposing to impose the punishment of removal from service.

2. According to the petitioner, there was a complaint by some third party alleging that the petitioner had demanded money and the said complaint was received by the Department after one year of the alleged incident. Basing on that, a preliminary enquiry was conducted without any notice to the petitioner. Basing on the said preliminary enquiry report, the petitioner was charge sheeted. Thereafter, a regular departmental enquiry was conducted. In the process of the said enquiry, it is stated that the Enquiry Officer appointed by the respondent did not conduct the enquiry as contemplated under the Rules. The grievance of the petitioner is that when the complainant or other witnesses on behalf of the complainant have not come forward to give their statements before the Enquiry Officer, the Enquiry Officer recorded statement of the petitioner, and it is only thereafter the complainant and the complainant's witnesses have come forward and accordingly their statements were recorded. The said process of conducting the enquiry is not in accordance with the Rules. Therefore, the entire enquiry vitiates, and when once the enquiry vitiates, the enquiry report cannot be relied upon. Therefore, the impugned notice is illegal and unsustainable, and hence sought to quash the same as well as the enquiry report. In fact, the petitioner did not seek to quash the enquiry report as per his prayer in the writ petition. According to the petitioner, the show cause notice issued by the respondent without considering his explanation dated 19.11.2004 and 23.5.2005 is illegal and therefore, it amounts to violation of the principles of natural justice, and accordingly sought for quashing of the show cause notice as well as for suspension order dated 9.10.2004.

3. Heard both the learned counsel and considered the material on record.

4. The petitioner has come up with the present writ petition at the stage where he was asked to submit his explanation to the show cause notice dated 6.6.2005 proposing to impose punishment. In fact, this show cause notice is a second one, as the respondents had already issued a show cause notice before the report of the Enquiry Officer was accepted, and the petitioner had already submitted his explanation. When once the petitioner had given an opportunity to submit his

explanation or objections to the enquiry report, a second show cause notice is not contemplated under law. In any case, the present impugned show cause notice is issued calling for the objections of the petitioner. Therefore, it is open to the petitioner to submit his explanation as well as objections to the proposed action including the objections if any as to the enquiry report and any other irregularities or non-compliance of the Rules and Regulations. The petitioner instead of doing so has come up with the present writ petition. At this stage this writ petition cannot be entertained, as it is premature, especially when the matter is still under consideration of the disciplinary authority i.e., the respondents herein.

5. Under the above circumstances, the writ petition is dismissed as devoid of any merit, without going into the merits or otherwise of the contentions advanced by the parties. However, it is open to the petitioner to submit his explanation within two weeks from today, and if such explanation is submitted by the petitioner the respondents are directed to consider the same before passing final orders.

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S.Ananda Reddy,J.

Dt. 22.06.2005
Note: Issue CC in
Three days.(bo)
Kvh

1) The Regional Manager (Hyderabad City Region),

Andhra Pradesh State Road Transport Corporation
Jubillee Bus Station, Picket, Secunderabad.

2) 2 CD copies